

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF AMENDMENT
ARM 17.8.744 and adoption of New)	AND ADOPTION
Rules I through IX implementing a)	
registration system for certain facilities)	(AIR QUALITY)
that currently require a Montana air)	
quality permit)	

TO: All Concerned Persons

1. On December 21, 2018, the Board of Environmental Review published MAR Notice No. 17-402 regarding the public hearing on the proposed amendment and adoption of the above-stated rules at page 2430, 2018 Montana Administrative Register, Issue Number 24.

2. The board has amended the rule exactly as proposed. The board has adopted New Rule I (17.8.1801), New Rule II (17.8.1802), New Rule III (17.8.1805), New Rule IV (17.8.1806), New Rule V (17.8.1807), New Rule VI (17.8.1810), New Rule VII (17.8.1811), New Rule VIII (17.8.1812), and New Rule IX (17.8.1815) exactly as proposed.

3. The following comments were received and appear with the board's responses:

COMMENT NO. 1: The board received a comment in support of the proposed amendment and adoption of new rules. The commenter recognized the efforts of the department to work with industry stakeholders in developing a proposed new registration system that is both fair and protective of the environment.

RESPONSE: The board thanks the commenter for the comments.

COMMENT NO. 2: The board received a comment regarding the particulate matter (PM) limits for asphalt plants in proposed New Rule IX. The commenter noted that the proposed PM limit of 0.04 grains per dry standard cubic foot (Gr/DSCF) for all new and/or previously unpermitted asphalt plants comes from a federal New Source Performance Standard (NSPS) that is applicable only to asphalt plants that commenced construction or modification after June 11, 1973. The commenter suggested that the PM emission limits in rule be set in accordance with not just the level but the applicability of the NSPS, allowing a plant that does not meet the applicability requirements of the NSPS to operate without meeting the PM limits of the NSPS.

RESPONSE: The board appreciates the comment. The commenter is correct that the PM emission limit of 0.04 Gr/DSCF is consistent with that set forth in the NSPS. However, the board clarifies that the proposed limit is not simply a surrogate for the NSPS, which, the board notes, remains an applicable federal regulation for certain asphalt plants due to its incorporation by reference into the board's generally

applicable emission standards in ARM 17.8.302. Rather, the proposed limit represents the present-day standard achievable with best available control technology or "BACT." Under existing permitting rules, a company seeking a new Montana air quality permit for an asphalt plant, regardless of its age, would be required to install the maximum air pollution control capability that is technically practicable and economically feasible following a case-by-case BACT analysis. The department has written Montana air quality permits for many asphalt plants over the last decade that have included a BACT analysis and resultant PM emission limit of 0.04 Gr/DSCF.

The board decided not to apply the 0.04 Gr/DSCF limit to existing asphalt plants that hold valid Montana air quality permits containing different limits because those limits were determined to be appropriate based on thorough analyses at the times of issuance. In the absence of any modification of a plant that would require a new evaluation, it would not be reasonable to change the limits for those plants simply because the board has adopted new rules. However, the board believes that any new case-by-case analysis of those or similar asphalt plants would result in a limit of 0.04 Gr/DSCF, in line with the requirements in proposed New Rule IX and consistent with the NSPS. Therefore, the board did not make changes to the PM emission limits based on this comment.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ Edward Hayes

EDWARD HAYES

Rule Reviewer

By: /s/ Christine Deveny

CHRISTINE DEVENY

Chair

Certified to the Secretary of State April 16, 2019.